

LAW AND PUBLIC SAFETY

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Division of Alcoholic Beverage Control Rules

Consumer Alcoholic Beverage Tasting Events and Samplings.

Proposed Amendment: N.J.A.C. 13:2-37.1

Authorized By: Jerry Fischer, Director, Division of Alcoholic Beverage Control

Authority: P.L. 2003, c.279; N.J.S.A. 33:1-12.

Calendar Reference: See Summary below for explanation of exception to
calendar requirement.

Proposal Number: PRN 2004-338

Submit comments by November 6, 2004 to:

Jerry Fischer, Director

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The agency proposal follows:

Summary

The Division of Alcoholic Beverage Control (Division) is proposing the amendment of an existing rule which pertains to the conduct of consumer alcoholic beverage tasting or tasting dinner events, N.J.A.C. 13:2-37.1. The amendment is in

response to new legislation contained in P.L. 2003, c. 279. This legislation was signed by Governor McGreevey on January 14, 2004 to take effect on June 1, 2004. The legislation permits plenary retail consumption licensees and permittees to conduct consumer tasting events and samplings of wine, beer and spirits for a fee or on a complimentary basis pursuant to the conditions established by the Division. The legislation also permits plenary retail distribution licensees (package goods stores) to conduct wine tastings and samplings on a complimentary basis pursuant to the conditions established by the Division, provided: (1) patrons are limited to four one-and-one half ounce samples in any one 24-hour period; (2) samples are not offered to, or allowed to be consumed by, any minor or intoxicated person; (3) samples are not offered when the sale of alcoholic beverages is otherwise prohibited; and (4) tastings and samplings are confined to the licensed premises. In addition, the legislation provides that the wine used in the tastings and samplings on the licensed premises of a distribution licensee shall be owned by the licensee conducting these tastings and samplings. The legislation specifies that a person who violates any of the preceding conditions will be fined an amount established by the Division of Alcoholic Beverage Control.

Based on the directives of this newly-enacted legislation, the Division proposes to amend the headings of Subchapter 37 and existing rule N.J.A.C. 13:2-

37.1 to “Consumer Alcoholic Beverage Tasting Events and Samplings.” The Division proposes to amend existing rule N.J.A.C. 13:2-37.1 by amending the existing text and adding several new subsections.

The proposed amendment will affect plenary retail consumption licensees, on-premise consumption permittees and retail distribution licensees since it now extends sampling of alcoholic beverages, in the circumstances outlined in the amendment, to these particular licensees. Additionally, the amendment also lifts some of the restrictions in the current rule relating to tasting events including the restriction of these events to on-premise consumption licensees and permittees and the requirement of advanced ticket purchases for attendees. The amendment allows tasting events at both on-premises consumption licensees and permittees and distribution licensees and only requires the distribution of invitations at least 24 hours in advance, thus preventing attendance by the general public, but not requiring a ticket purchase.

Furthermore, based on the new legislation, the Division has removed the distinction between tastings and tasting dinners in this amendment. In the current rule, the distinction between tastings and tasting dinners concerned the size of servings allowed at the events. Servings at a tasting were more limited than those allowed at a tasting dinner. The new legislation evinces an intent to permit tasting

events on a broader basis. Thus, the distinction between tasting and tasting dinner is no longer meaningful and has been eliminated in this amendment.

A summary of each subsection of the amended N.J.A.C. 13:2-37.1 follows:

Proposed subsection (a) provides definitions of “tasting event” and “sampling” for the purpose of this section. “Tasting event” means a scheduled event hosted by a licensee or permittee, which is not open to the public and for which invitations are provided to guests 24 hours in advance. “Sampling” means an act by a licensee or permittee where a small amount of an alcoholic beverage is offered to a consumer for the purpose of inducing or promoting a sale.

Current subsection (a) of N.J.A.C. 13:2-37.1 has been recodified as subsection (b) and has been modified to clarify that the host for a consumer alcoholic beverage tasting event or sampling under this section must be an actively operating licensee or permittee allowed to sell alcoholic beverages in open containers. This encompasses retail consumption licensees, social affair permittees, concessionaire permittees, club license holders, or any other entity with a valid license or permit allowing immediate on-premises consumption. The requirement that a tasting event must be conducted in connection with an instructional or educational program for alcoholic beverage products has been eliminated in the spirit of the new legislation which has broadened the scope of

tasting events. However, to ensure that alcoholic beverage law is observed, the proposal has added several safeguards. The proposed amendment requires that tasting events are not to be open to the general public. In place of the existing requirement of advance ticket sales, participants are limited to invitations given 24 hours in advance. This will ensure the orderly conduct of each event by limiting attendees to those invited in advance. Additionally, the proposed amendment requires that tasting events and samplings are not offered to or allowed to be consumed by any person under the legal age to consume alcoholic beverages or by any intoxicated persons. The proposed amendment also requires that tasting events and samplings are not to be offered when the sale of alcoholic beverages is otherwise prohibited. Furthermore, the proposed amendment requires that all samplings must be from the inventory of the licensee. Moreover, pursuant to the new legislation, the prohibition for retail distribution licensees to conduct tasting events has been removed from this subsection. The regulations relating to retail distribution licensees are contained in proposed subsection (c) described below.

Proposed subsection (c) to N.J.A.C. 13:2-37.1 sets out the conditions for consumer wine tasting events and samplings held at plenary retail distribution licensed premises (package goods stores). Prior to the new legislation, P.L. 2003, c. 279, retail distribution licensees were prohibited from conducting tasting events

and samplings. The proposed amendment allows such activities pursuant to the legislation, but requires that tasting events and samplings are limited to wine and confined to the licensed premises. All wine used in the tasting events and samplings shall be from the inventory of the licensee conducting the tasting event or sampling. Suppliers, manufacturers or wholesalers of alcoholic beverages holding an annual special permit as provided in N.J.A.C. 13:2-37.1(b)5 may participate in consumer tasting events hosted by distribution licensees. As provided in N.J.A.C. 13:2-37.1(b)5, each solicitor or duly authorized representative participating in consumer tasting events must hold an additional \$200.00 permit. Also, the proposed amendment prohibits seating of any kind and any bars for the purpose of samplings or tasting events on a distribution licensed premises.

The new legislation focuses on the ability of the consumer to taste and sample wines prior to purchase. Therefore, the Division has limited food at tasting events at a distribution licensed premises to the traditional accents to the tasting of wine. The proposed amendments state that only cheese, crackers, chips, dip and similar snack foods are permitted to be served at a tasting. Similar snack foods is intended to include items such as tortilla chips, cut vegetables and other foods of this type and does not include hot hors d'oeuvres. Only cheese and crackers are permitted to be served during a sampling.

To ensure that the Division is apprised of tasting events, the proposed amendment requires that distribution licensees holding a tasting event must notify the Division of Alcoholic Beverage Control, in writing, at least 10 days in advance of conducting a tasting event. The notice shall describe the place, time and products to be featured at the event.

Moreover, in order to balance the intent of the new legislation to extend the ability of licensees to participate in tasting events and samplings, with the legislative intent expressed in the Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq., to strictly regulate alcoholic beverages to protect the health, safety and welfare of the people of this State, the Division has proposed some parameters for these activities. Subsection (c) of the proposed amendment to N.J.A.C. 13:2-37.1 provides that only 12 bottles of wine may be open and offered at each tasting event (for purposes of this regulation, an alcoholic beverage product means each specific individual brand registered alcoholic beverage product being offered).

Also, the proposed amendment allows only one tasting event in a 24-hour period and as required in the new legislation, at a tasting event, each patron/customer is limited to four one-and one-half ounce samples.

Additionally, the proposed amendment limits samplings on a retail distribution licensed premises to the hours of 9:00 a.m and 10:00 p.m and requires

that patrons/customers are limited to four one-and one-half ounce samplings in any 24-hour period. The proposed amendment requires that samplings may not be offered to, or allowed to be consumed by, any person under the legal age for consuming alcoholic beverages or intoxicated persons. Also, samplings are not to be offered when the sale of alcoholic beverages is otherwise prohibited.

Further safeguards intended to balance the intent of the new legislation with the Division's mandate to strictly control alcoholic beverages are contained in the proposal. They are: (1) only six bottles of wine may be open at any one time on a plenary retail distribution licensed premise for the purpose of sampling; (2) when a bottle is opened for the purpose of a sampling, a form supplied by the Division identifying the brand, size and the date the bottle was opened must be completed by the licensee (This form must be maintained on the licensed premises and available for inspection); (3) when a bottle is opened for the purpose of a sampling, the bottle must be marked SAMPLE and with the date the bottle was opened which coincides with the completed form; (4) once a bottle is opened for the purpose of sampling, it cannot be returned to the supplier; and (5) no samplings of distilled spirits, beers or malt alcoholic beverages may be provided by a Plenary Retail Distribution Licensee.

Proposed subsection (d) of N.J.A.C. 13:2-37.1 provides the sanctions for

any violation of State statutes, Division regulations, or terms of any permit issued, in connection with this subsection. These are: (1) the liquor license will be subject to the imposition of suspensions starting five days for a first offense, 10 days for a second offense, and 15 days for a third offense; and (2) a fine not to exceed \$500.00 for each offense. Although the Alcoholic Beverage Control Act provides for suspensions and revocations for violations of the Act, the new legislation provides specifically for the additional imposition of a fine for violations of this section.

Proposed subsection (e) of N.J.A.C. 13:2-37.1 specifies that no licensee or permittee shall allow or permit the advertising, in any fashion, of the availability of any alcoholic beverages for purchase or sampling on a licensed premises by a non-licensed premises which permits consumption of alcoholic beverages pursuant to N.J.S.A. 2C:33-27 (the “brown bag” or “BYOB” statute). This prohibition is intended to preclude such items as table tents, notices on menus or other advertising in such BYOB restaurants intended to entice restaurant patrons to purchase alcoholic beverages at nearby retail distribution licensees. This proposed amendment is also intended to prohibit illegal connections or partnerships between such BYOB restaurants and retail distribution licensees. However, this subsection is not intended to prevent wait staff at BYOB restaurants

from providing information on area liquor stores if first asked by a patron.

Proposed subsection (f) provides that the Director may, on his or her own initiative or at the request of any affected industry member, investigate and, if appropriate, disapprove and prohibit the continued or renewed use of any tasting event or sampling, if the effect of that tasting event or sampling is inconsistent with the purposes of this subchapter. Whether to disapprove and prohibit a tasting event or sampling will be considered pursuant to N.J.S.A. 33:1-39 and/or N.J.A.C. 13:2-19.1. The Division anticipates that any industry member who believes that the use of any tasting event or sampling is inconsistent with the provisions of this rule or that a tasting event or sampling violates the Alcoholic Beverage Control Act and/or its attendant rules, will contact the Division to request an investigation and, if appropriate, redress of the situation.

A 60-day comment period is provided for this notice of proposal and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed amendment of the existing rule which pertains to the conduct of consumer alcoholic beverage tasting or tasting dinner events, N.J.A.C. 13:2-37.1, is in response to new legislation contained in P.L. 2003, c. 279. This legislation was signed by Governor McGreevey on January 14, 2004 and was effective on June 1, 2004. The legislation permits plenary retail consumption licensees and permittees to conduct consumer tasting events and samplings of wine, beer and spirits for a fee or on a complimentary basis pursuant to the conditions established by these proposed regulations. The legislation also permits plenary retail distribution licensees (package goods stores) to conduct wine tasting events and samplings on a complimentary basis pursuant to the conditions established by these proposed regulations, provided: (1) patrons are limited to four one-and-one half ounce samplings in any one 24-hour period; (2) samplings are not offered to, or allowed to be consumed by, any minor or intoxicated person; (3) sampling are not offered when the sale of alcoholic beverages is otherwise prohibited; and (4) tasting events and samplings are confined to the licensed premises. In addition, the legislation provides that the wine used in the tasting events and samplings on the licensed premise of a distribution licensee shall be owned by the licensee conducting these tasting events and samplings. The legislation specifies that a person who violates any of the preceding conditions will

be fined an amount established by the Division of Alcoholic Beverage Control.

The intent of this legislation was to allow a process which would be beneficial to those licensees who choose to allow customers to taste wines, but also to be a benefit to consumers who would have the advantage to know in advance of purchase whether they indeed like a particular wine well enough to buy it.

In order to balance the intent of the new legislation to extend the ability of licensees to participate in tasting events and samplings, with the legislative intent expressed in the Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq., to strictly regulate alcoholic beverages to protect the health, safety and welfare of the people of this State, the Division has proposed some parameters for these activities. For licensees and permittees who are allowed to sell alcoholic beverages in open containers, the parameters for conducting tasting events and samplings include: (1) tasting events are not to be open to the general public, but are to be limited to invitations given 24 hours in advance; (2) tasting events and samplings are not to be offered to or allowed to be consumed by any person under the legal age to consume alcoholic beverages or by any intoxicated persons; (3) tasting events and samplings are not to be offered when the sale of alcoholic beverages is otherwise prohibited; and (4) all samplings must be from the inventory of the licensee.

For retail distribution licensees, the parameters for conducting tasting events

and samplings include: (1) tasting events and samplings are confined to the licensed premises and all wine used in the tasting events and samplings shall be from the inventory of the licensee conducting the tasting or sampling; (2) suppliers, manufacturers or wholesalers of alcoholic beverages holding an annual special permit as provided in N.J.A.C. 13:2-37.1(b)5 may participate in consumer tasting events hosted by distribution licensees and as provided in N.J.A.C. 13:2-37.1(b)5, each solicitor or duly authorized representative participating in consumer tasting events must hold an additional \$200.00 permit; (3) seating of any kind and any bars for the purpose of samplings or tasting events on a distribution licensed premises is prohibited; (4) only cheese, crackers, chips, dip and similar snack foods are permitted to be served at a tasting and only cheese and crackers are permitted at a sampling; (5) distribution licensees holding a tasting event must notify the Division of Alcoholic Beverage Control, in writing, at least 10 days in advance of conducting a tasting event (the notice shall describe the place, time and products to be featured at the event); (6) only 12 bottles of wine may be open and offered at each tasting event (for purposes of this rule, an alcoholic beverage product means each specific individual brand registered alcoholic beverage product being offered); (7) only one tasting event is permitted in a 24-hour period; (8) at a tasting event, each patron/customer is limited to four one-and one-half ounce samples; (9)

samplings on a retail distribution licensed premises are limited to the hours of 9:00 a.m and 10:00 p.m; (10) patrons/customers are limited to four one-and one-half ounce samplings in any 24-hour period; (11) samplings may not be offered to, or allowed to be consumed by, any person under the legal age for consuming alcoholic beverages or intoxicated persons; (12) samplings are not to be offered when the sale of alcoholic beverages is otherwise prohibited; (13) only six bottles of wine may be open at any one time on a plenary retail distribution licensed premise for the purpose of sampling; (14) when a bottle is opened for the purpose of a sampling, a form supplied by the Division identifying the brand, size and the date the bottle was opened must be completed by the licensee (This form must be maintained on the licensed premises and available for inspection); (15) when a bottle is opened for the purpose of a sampling, the bottle must be marked SAMPLE and with the date the bottle was opened which coincides with the completed form; (16) once a bottle is opened for the purpose of sampling, it cannot be returned to the supplier; and (17) no samplings of distilled spirits, beers or malt alcoholic beverages may be provided by a Plenary Retail Distribution Licensee.

The proposed amendment will affect plenary retail consumption licensees, on-premise consumption permittees and retail distribution licensees since it now extends sampling of alcoholic beverages, in the circumstances outlined in the

amendment, to these particular licensees. Additionally, the proposed amendment also lifts some of the restrictions in the current rule relating to tasting events held by on-premises consumption licensees and permittees, including the restriction of these events to on-premise consumption licensees and permittees and the requirement of advanced ticket purchases for attendees. The proposed amendment allows tasting events at both on-premises consumption licensees and permittees and distribution licensees and only requires the distribution of invitations at least 24 hours in advance, thus preventing attendance by the general public, but not requiring a ticket purchase. The Division anticipates that there will be a positive reaction both by the general public and the alcoholic beverage industry to the broadening of the conduct of tasting events and the provision for sampling at both consumption and distribution licensed premises since it allows more information to be imparted to alcoholic beverage consumers, including the taste of sampled wines prior to purchase.

Furthermore, based on the new legislation, the Division has removed the distinction between tastings and tasting dinners in this proposed amendment. In the current rule, the distinction between tastings and tasting dinners concerned the size of servings allowed at the events. Servings at a tasting were more limited than those allowed at a tasting dinner. The new legislation evinces an intent to permit

tasting events on a broader basis. Thus, the distinction between tasting and tasting dinner is no longer meaningful and has been eliminated in this proposed amendment.

By properly balancing the newly enacted broadening of tasting events and ability to conduct samplings with the strictures of alcoholic beverage law, there is a positive social benefit for the industry and public at large. Therefore, a positive social impact is realized by the adoption of this proposed amendment.

Economic Impact

The proposed amendment of the existing rule which pertains to the conduct of consumer alcoholic beverage tasting or tasting dinner events, N.J.A.C. 13:2-37.1, is in response to new legislation contained in P.L. 2003, c. 279.

This proposed amendment imposes an economic impact upon licensees or permittees allowed to sell alcoholic beverages in open containers in that these licensees and permittees have expanded opportunities to conduct tasting events and samplings. Opportunities are also now extended to retail distribution licensees to conduct tasting events and samplings at their package goods stores. This Division anticipates an increased economic benefit to the public since consumers would have the advantage to know in advance of purchase whether they like a particular wine enough to purchase it.

There is a direct economic impact upon the Division for expenses that include scheduling and notice expenses, site expenses, instructional expenses and other related costs. The economic impact upon the Division and its enforcement arm, the ABC's Investigative Unit, will not be changed by the adoption of these new rules. Local law enforcement officials who review activities at licensed premises in their communities will continue to do so without any enhanced economic impact because of the adoption of this amendment. The adoption of this amendment represents the needed control and enforcement remedy to ensure, as best as possible, a uniform and strict compliance with the standards set forth in the Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq.

Federal Standard Statement

A Federal standards analysis is not required since the proposed amendment is dictated and in accordance with N.J.S.A. 33:1-1 et seq. and there are no applicable Federal requirements or standards.

Jobs Impact

The Division is not aware of any jobs that are likely to be generated or lost as a consequence of this amendment.

Agriculture Industry Impact

The proposed amendment will have no impact on the agriculture industry in this State.

Regulatory Flexibility Analysis

Most liquor licensees are small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The compliance requirements contained in this proposal are as follows.

For licensees and permittees who are allowed to sell alcoholic beverages in open containers, the parameters for conducting tasting events and samplings include: (1) tasting events are not to be open to the general public, but are to be limited to invitations given 24 hours in advance; (2) tasting events and samplings are not to be offered to or allowed to be consumed by any person under the legal age to consume alcoholic beverages or by any intoxicated persons; (3) tasting events and samplings are not to be offered when the sale of alcoholic beverages is otherwise prohibited; and (4) all samplings must be from the inventory of the licensee.

For retail distribution licensees, the parameters for conducting tasting events and samplings include: (1) tasting events and samplings are confined to the

licensed premises and all wine used in the tasting events and samplings shall be from the inventory of the licensee conducting the tasting or sampling;

(2) suppliers, manufacturers or wholesalers of alcoholic beverages holding an annual special permit as provided in N.J.A.C. 13:2-37.1(b)5 may participate in consumer tasting events hosted by distribution licensees and as provided in N.J.A.C. 13:2-37.1(b)5 above, each solicitor or duly authorized representative participating in consumer tasting events must hold an additional \$200.00 permit;

(3) seating of any kind and any bars for the purpose of samplings or tasting events on a distribution licensed premises is prohibited; (4) only cheese, crackers, chips, dip and similar snack foods are permitted to be served at a tasting and only cheese and crackers are permitted at a sampling; (5) distribution licensees holding a tasting event must notify the Division of Alcoholic Beverage Control, in writing, at least ten days in advance of conducting a tasting event (the notice shall describe the place, time and products to be featured at the event); (6) only 12 bottles of wine may be open and offered at each tasting event (for purposes of this rule, an alcoholic beverage product means each specific individual brand registered alcoholic beverage product being offered); (7) only one tasting event is permitted in a 24 hour period; (8) at a tasting event, each patron/customer is limited to four one-and one-half ounce samples; (9) samplings on a retail distribution licensed

premises are limited to the hours of 9:00 a.m and 10:00 p.m;

(10) patrons/customers are limited to four one-and one-half ounce samplings in any 24 hour period; (11) samplings may not be offered to, or allowed to be consumed by, any person under the legal age for consuming alcoholic beverages or intoxicated persons; (12) samplings are not to be offered when the sale of alcoholic beverages is otherwise prohibited; (13) only six bottles of wine may be open at any one time on a plenary retail distribution licensed premise for the purpose of sampling; (14) when a bottle is opened for the purpose of a sampling, a form supplied by the Division identifying the brand, size and the date the bottle was opened must be completed by the licensee (this form must be maintained on the licensed premises and available for inspection); (15) when a bottle is opened for the purpose of a sampling, the bottle must be marked SAMPLE and with the date the bottle was opened which coincides with the completed form; (16) once a bottle is opened for the purpose of sampling, it cannot be returned to the supplier; and (17) no samplings of distilled spirits, beers or malt alcoholic beverages may be provided by a Plenary Retail Distribution Licensee.

As noted above, the proposed amendment imposes some additional record keeping requirements since if the business is a retail distribution licensee, there is a required form to be completed if a sampling is held at the licensed premises. This

form requires the licensee to identify the brand of alcoholic beverage used, the size and the date the bottle was opened.

The Division anticipates that no other additional professional services will be required for compliance with the proposal. There is no distinction made for a small business licensee since the proposal imposes compliance requirements that are uniform for all licensees regardless of size. This uniformity is based on the fact that all licensees affected by the proposal, that is, those holding a consumption or distribution license, regardless of business size, have the same privileges and responsibilities, based on the type of license held (consumption or distribution). Thus, for regulatory and enforcement purposes, the compliance requirements contained in this proposal are uniform, regardless of business size.

Smart Growth Impact

The proposed amendment will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**;

deletions indicated in brackets [thus]):

Subchapter 37. Consumer Alcoholic Beverage Tasting[s or Tasting Dinner]**Events and Samplings**

13:2-37.1 Consumer Alcoholic Beverage Tasting[s or Tasting Dinner] **Events and Samplings**

(a) Definitions for the purpose of this section are as follows:

- 1. “Tasting event” means a scheduled event hosted by a licensee or permittee, which is not open to the public and for which invitations are provided to guests at least 24 hours in advance.**
- 2. “Sampling” means an act by a licensee or permittee where a small amount of an alcoholic beverage is offered to a consumer for the purpose of inducing or promoting a sale.**

[(a)]**(b)** Consumer alcoholic beverage [tastings or] tasting [dinner] events, **or samplings** may be held **by a licensee or permittee allowed to sell alcoholic beverages in open containers** under the following conditions:

1. The host for an event shall hold [a valid permit or] **an** actively operated license **or a valid permit** [exercising the on-premises consumption privilege] **authorizing sales of alcohol for immediate on-premises consumption;**
- [2. No event shall be conducted on a plenary or limited retail distribution licensed premises;
3. The event shall be conducted and promoted in connection with an instructional or educational program for alcoholic beverage products;]

- [4.] **2.** All alcoholic beverages [sampled at the] **consumed at a tasting** event shall be obtained from the inventory of the host licensee or Annual State permittee, or, if a social affair permittee, purchased in accordance with the Division laws and regulations;
- [5.] **3.** The **tasting** event is not open to the general public, but is limited to [consumers who purchase a ticket] **invitation given 24 hours in advance only**;
- [6.] **4.** Servings of alcoholic beverages per person are limited to:
- i. No more than five ounces of a particular malt alcoholic beverage, or naturally fermented or sparkling wine at **a** consumer tasting [dinners] **event; or**
 - [ii. No more than one and one-half ounces of a particular naturally fermented or sparkling wine or four ounces of a malt alcoholic beverage at consumer tastings], or
 - [iii.]**ii.** No more than **one-and-**one-half ounces of a particular fortified wine or distilled spirit at consumer [tastings or consumer] tasting [dinners] **events**;
[and]
- [7.]**5.** Suppliers, manufacturers or wholesalers of alcoholic beverages may apply for an annual special permit to participate in consumer tasting events, solely to provide educational commentary regarding the alcoholic beverages. The fee for the annual special permit for the supplier, manufacturer or wholesaler shall be \$200.00 and an additional \$200.00 permit for each solicitor or duly authorized representative. Ten days prior to participating in the event, the permittee shall file

with the Division a consumer tasting request on a form prescribed by the Director[.];

- 6. Tasting events and samplings are not offered to, or allowed to be consumed by, any person under the legal age for consuming alcoholic beverages or intoxicated persons;**
- 7. Tasting events and samplings are not offered when the sale of alcoholic beverages is otherwise prohibited; and**
- 8. All samplings must be from the inventory of the licensee.**

(c) Consumer wine tasting events and samplings may be held at plenary retail distribution licensed premises under the following conditions:

- 1. Tasting events and samplings are confined to the licensed premises and all wine used in the tasting events and samplings shall be from the inventory of the licensee conducting the tasting event or sampling;**
- 2. Suppliers, manufacturers or wholesalers of alcoholic beverages holding an annual special permit as provided in (b)5 above may participate in consumer tasting events hosted by distribution licensees, provided each solicitor or duly authorized representative participating in consumer tasting events holds an additional \$200 permit as required in (b)5 above;**
- 3. No seating of any kind nor any bars are permitted for the purpose of samplings or tasting events on a distribution licensed premises;**
- 4. Only cheese, crackers, chips, dip and similar snack foods are permitted to be**

served at a tasting event. Only cheese and crackers are permitted to be served during a sampling;

5. Distribution licensees holding a tasting event must notify the Division of Alcoholic Beverage Control, in writing, at least 10 days in advance of conducting a tasting event, describing the place, time and products to be featured at the event;

 - i. Only 12 bottles of wine may be open and offered at each tasting event; for purposes of this paragraph, an alcoholic beverage product means each specific individual brand registered alcoholic beverage product being offered;
 - ii. Only one tasting event may be conducted in a 24-hour period;
 - (iii) At a tasting event, each patron/customer is limited to four one-and one-half ounce samples;
6. Samplings may only be permitted on a retail distribution licensed premises between the hours of 9:00 a.m and 10:00 p.m.;
7. Patrons are limited to four one-and one-half ounce samplings in any 24-hour period;
8. Samplings are not offered to, or allowed to be consumed by, any person under the legal age for consuming alcoholic beverages or intoxicated persons;
9. Samplings are not offered when the sale of alcoholic beverages is otherwise prohibited;

- 10. Only six bottles of wine may be open at any one time on a plenary retail distribution licensed premise for the purpose of sampling:**
- i. When a bottle is opened for the purpose of a sampling, a form supplied by the Division identifying the brand, size and the date the bottle was opened must be completed by the licensee. This form must be maintained on the licensed premises and available for inspection;**
 - ii. When a bottle is opened for the purpose of a sampling, the bottle must be marked SAMPLE and with the date the bottle was opened, which coincides with the completed form; and**
 - iii. Once a bottle is opened for the purpose of sampling, it cannot be returned to the supplier; and**
- 11. No samplings of distilled spirits, beers or malt alcoholic beverages may be provided by a Plenary Retail Distribution Licensee.**

(d) For any violation of State statutes, Division regulations, or terms of any permit issued, the following will be imposed in connection with this subsection:

- 1. The liquor license will be subject to the imposition of suspensions starting five days for a first offense, 10 days for a second offense, and 15 days for a**

third offense; and

2. A fine not to exceed \$500.00 for each offense.

(e) No licensee or permittee shall allow or permit the advertising, in any fashion, of the availability of any alcoholic beverages for purchase or sampling on a licensed premises by a non-licensed premises which permits consumption of alcoholic beverages pursuant to N.J.S.A. 2C:33-27.

(f) The Director may, on his or her own initiative or at the request of any affected industry member, investigate and, if appropriate, disapprove and prohibit the continued or renewed conduct of any tasting event or sampling or the participation of any licensee or permittee in tasting events or sampling, if the effect of that licensee's or permittee's participation or the tasting event or sampling is inconsistent with the purposes of this subchapter. Whether to disapprove and prohibit a tasting event or sampling, or the participation by a licensee or permittee therein, will be considered pursuant to N.J.S.A. 33:1-39 and/or N.J.A.C. 13:2-19.1.